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## UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA

In re Artimm, S.r.I., Debtor. Case No. LA 01-42911-SB

Section 304

ORDER OVERRULING DRAI'S **OBJECTIONS TO DECLARATION** OF DR. SERGIO LO PRATO

Date: June 21, 2005 Time: 10:00 a.m. Ctrm: 1575

Creditor Victor Drai objects to the admissibility of evidence provided in the declaration of Dr. Sergio Lo Prato on two grounds: that an affidavit is not competent evidence and that the financial statement is hearsay. The court overrules both objections.

The proceeding before the court is in the nature of summary judgment. The court may approve the settlement agreement if it finds that any objection to it must be overruled.

For the purpose of summary judgment, Fed.R.Civ.P. 56(a), incorporated by reference in Fed.R.Bankr.P. 9014(c), specifically authorizes the use of an affidavit in support of summary judgment. Similarly, Rule 56(b) authorizes a defendant party to submit an affidavit in opposition. Thus, the affidavits are competent evidence before the court.

Drai objects that the financial information attached to Lo Prato's declaration is

hearsay. The court finds otherwise. Lo Prato specifically declares: "I oversaw, supervised and directed the review and compilation of the financial records and accountings related to the costs and expenses of a production and exploitation of the Film . . .". He further testifies, "I personally oversaw and approved the preparation of the financial statement (attached) covering the worldwide exploitation of the Film from completion through June 30, 2004." This shows that Dr. Lo Prato has personal and first hand knowledge on which to base his declaration and the accompanying financial statement. This is not hearsay. The objection is overruled.

Drai also objects to LoPrato's accounting, which is all presented in euros (and converted to U.S. dollars), on the grounds that part of it relates to a period of time before the euro was adopted. However, Drai presents no evidence that the conversion from other monetary units to euros was not properly done by Lo Prato.<sup>1</sup> Absent any such evidence, the court can give no weight to this objection. In consequence, it is overruled.

DATED: November 30, 2005

/S/

SAMUEL L. BUFFORD UNITED STATES BANKRUPTCY JUDGE

<sup>&</sup>lt;sup>1</sup>The court will perform its own conversion of euros to dollars, based on current market rates.

## **CERTIFICATE OF MAILING**

2	CERTIFICATE OF WAILING	
3	I certify that a true copy of this OVERRULING OBJECTIONS TO DECLARATION	
4	OF DR. SERGIO LOPRATO was mailed o	nto the parties listed
5	below:	
6		
7 8	U.S. Trustee's Office 725 So. Figueroa St., Suite 2600 Los Angeles, CA 90017	Michael M. Plotkin Law Offices of Michael M. Plotkin 1801 Avenue of the Stars, Suite 801
9	Charles M. Coate	Los Angeles, CA 90067-5890 Paul A. Beck
10	Costa, Abrams & Coate, LLP 1221 Second St., Third Floor Santa Monica, CA 90401	Ben-Zvi & Beck, LLP 13701 Riverside Drive, Suite 701 Sherman Oaks, CA 91423
11	Albert S. Golbert	Directors Guild of America, Inc.
12 13	Albert S. Golbert & Associates 601 West Fifth St., Eighth Floor Los Angeles, CA 90071-9036	7920 Sunset Blvd. Los Angeles, CA 90046 Attn: Elliott Williams
14 15 16	Peter S. Dickinson Geffner & Bush 3500 West Olive Ave., Suite 1100 Burbank, CA 91505	Ivan L. Kallick Ileana M. Hernandez Manatt Phelps & Phillips, LLP 11355 West Olympic Blvd. Los Angeles, CA 90064
17 18	Victor Drai 2765 Woodstock Rd. Los Angeles, CA	
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21		
22		
23		11/
24	DATED: \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	USWAND
25		DEPUTY CLERK
26		